
OLR Bill Analysis

HB 5126

AN ACT CONCERNING AN AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.

SUMMARY:

This bill adopts the interstate compact entitled “The Agreement Among the States to Elect the President by National Popular Vote,” under which Connecticut agrees to conduct its presidential electors to the national popular vote winner in a presidential election, regardless of whether that person won a majority of the vote in Connecticut. Any state or Washington, D.C. may join the compact, which does not take effect until enough have done so to cumulatively possess a majority of Electoral College votes (270) (see BACKGROUND). The compact includes a severability clause so that, if a court finds any provision invalid, the remaining provisions are not affected. If the Electoral College is abolished, the compact terminates.

EFFECTIVE DATE: Upon passage

PROCEDURE FOR DETERMINING PRESIDENTIAL ELECTORS

Under the compact, each state that joins (“member state”) must appoint its presidential electors in accordance with specified procedures. These electors must cast their votes for the presidential and vice presidential candidates who receive a plurality of the national popular vote. The following procedures take place in each member state:

1. the state conducts its presidential election as a “statewide popular election” whereby individuals cast votes that are counted statewide;
2. the state's chief election official determines the number of votes cast for each presidential slate (president and vice president) in

each state (including nonmember states) and Washington, D.C. where a statewide popular election occurred and adds them to produce a national popular vote total (see BACKGROUND);

3. the chief election official designates the presidential slate with the largest number of votes as the “national popular vote winner;”
4. the official responsible for certifying the names of presidential electors must certify that the electors were appointed based on the national popular vote winner; and
5. at least six days before the presidential electors meet to vote, the state (presumably through the chief election official) makes a final determination of each presidential slate's popular vote total for the state and within 24 hours, communicates that information through an official statement to every other member state (see BACKGROUND).

The compact requires each member to treat the official statements containing the popular vote totals as conclusive and representative of a state's final vote.

In the event of a tie in the national popular vote, each member state's certifying official certifies the appointment of the presidential electors nominated in association with the candidate receiving the largest number of popular votes in the state. If the number of presidential electors a member state nominates is more or fewer than its number of electoral votes, the national popular vote winner nominates the presidential electors for the state, and the certifying official certifies their appointment.

Finally, each member state's chief election official must release to the public the vote counts and statements of vote immediately after they are determined or obtained.

OTHER PROVISIONS

Any member state may withdraw from the compact, but a

withdrawal during the last six months of a presidential term (after July 20 in a presidential election year) is not effective until the next president or vice president is qualified to serve the next term.

The compact requires each member state's chief executive (governor, or mayor for Washington, D.C.) to notify every other member state's chief executive if and when the compact takes effect in the official's state or the state withdraws. Each chief executive must also notify every other chief executive when the compact takes effect nationwide.

The compact's governing clause specifies that it applies to the appointment of presidential electors in any year when, on July 20, the compact is in effect because enough states have become members to cumulatively possess a majority of electoral votes.

BACKGROUND

Member States

To date, nine states (California, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, Rhode Island, Vermont, and Washington) and Washington, D.C. have adopted the compact. Together they hold 136 electoral votes.

Aggregating National Popular Votes, Including Nonmember States

Popular vote tallies from all 50 states and Washington, D.C. are included in the “national popular vote total,” regardless of whether the jurisdiction is a member of the compact. Popular votes can be counted from a nonmember state only if the state votes by popular vote. While all states currently conduct elections this way, neither the U.S. Constitution nor any state constitution, except Colorado's, provides individuals with the right to vote for president and vice president. Instead, state laws provide this right. Since a state could, by law, take the presidential vote away from its people, the compact addresses this event by specifying that the popular votes of every state that voted by popular vote would be aggregated to produce the national popular vote total.

Date When Presidential Electors Meet to Vote

The six-day deadline corresponds to the deadline in federal law's "safe harbor" provision (3 USC § 5). Under the safe harbor provision, if a state settles any controversy and makes a final determination concerning its presidential elector appointments at least six days before the time fixed by law for the electors' meeting, that determination is considered conclusive. Federal law requires the presidential electors of each state to meet and vote on the first Monday after the second Wednesday in December.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 9 Nay 4 (03/07/2014)